

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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WHIC-USA, INC., and ERNEST A.  
CSOLKOVITS,

UNPUBLISHED  
August 16, 2005

Plaintiffs-Appellants,

v

No. 262071  
Wayne Circuit Court  
LC No. 04-404168-NZ

DIANE M. CARLISLE, ROBERT L. AYERS,  
ROXINE HEINZE, SHARON RUDER,  
MARSHALL VINSON, K. SCOTT JONES,  
JOHN J. POMILIA, DON M. TRUPLETT, MARC  
BALLARD, JOHN P. QUINN, LORENE  
WHITMAN, HAZEL WHITMAN WILLIAM  
BALLARD, and JOHN BENO,

Defendants-Appellees,

and

FADI DAOUK and MIKE HAYES,

Defendants.

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Before: Zahra, P.J., and Cavanagh and Owens, JJ.

PER CURIAM.

Plaintiffs appeal as of right the trial court's order granting summary disposition in favor of all defendants and awarding sanctions to defendants. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

WHIC-USA, Inc., is a sales and marketing organization that sells health products. Csolkovits is an executive of the company. Defendants are individuals who reside in various counties in Michigan or in other states and who (apparently) agreed to distribute or expressed interest in distributing plaintiffs' products, or are involved with a similar, competing organization.

In February 2004, plaintiffs filed a complaint alleging defamation (Counts I and III) and tortious interference with a business relationship (Count II). Count I, which pertained to WHIC-USA, Inc., alleged that within a twelve-month period preceding the filing of the complaint,

defendants created or facilitated the creation and distribution of written and recorded materials that: were false and misleading, accused WHIC-USA, Inc., of “unethical and unlawful behavior,” were distributed to others, including potential business partners and customers, and were designed with the intention of causing WHIC-USA, Inc., to be held in disrepute, to induce those to which the materials were published to have an “evil opinion” of WHIC-USA, Inc., and to deprive WHIC-USA, Inc., of its standing in the business community. Count II alleged that defendants’ activities had substantially interfered with plaintiffs’ business relationships. Count III, which pertained to Csolkovits, contained allegations that were virtually identical to those contained in Count I.

Defendants Heinze, Ruder, Pomilia, and Quinn moved for summary disposition and/or a more definite statement.<sup>1</sup> Defendants alleged that plaintiffs failed to state a claim on which relief could be granted because they did not specify what allegedly defamatory statements were made, when such statements were made, or to whom such statements were made. Moreover, the complaint did not specify what alleged wrongful acts interfered with plaintiffs’ business relationship. Defendants requested summary disposition and sanctions in the amount of \$400,000.

The trial court granted summary disposition in favor of all defendants on the ground that the allegations were not pled with specificity, and that the discovery materials provided, answers to interrogatories, provided no more specificity. The trial court stated that it believed that the suit was frivolous, and awarded defendants \$5,000 in costs.

We review a trial court’s decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

To establish a claim of defamation, a plaintiff must show: (1) a false or defamatory statement concerning the plaintiff; (2) an unprivileged publication to a third party; (3) fault amounting to at least negligence on the part of the publisher; and (4) either actionability of the statement irrespective of special harm (defamation per se) or the existence of special harm (defamation per quod). *Mino v Clio School Dist*, 255 Mich App 60, 72; 661 NW2d 586 (2003). A defamation claim must be pled with specificity. *Royal Palace Homes, Inc v Channel 7 of Detroit, Inc*, 197 Mich App 48, 52; 495 NW2d 392 (1992).

The elements of tortious interference with a business relationship are: (1) the existence of a valid business relationship or expectancy; (2) knowledge of the relationship or expectancy on the part of the interferer; (3) an intentional interference inducing or causing a breach or termination of the relationship or expectancy; and (4) resultant damage to the party whose relationship or expectancy has been disrupted. *Lakeshore Community Hosp, Inc v Perry*, 212 Mich App 396, 401; 538 NW2d 24 (1995).

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<sup>1</sup> Defendants did not specify the ground or grounds on which they moved for summary disposition. This failure does not preclude appellate review. *Verna’s Tavern v Heite*, 243 Mich App 578, 584-585; 624 NW2d 738 (2000). The trial court’s analysis indicates that it granted the motion pursuant to MCR 2.116(C)(8) and (10).

If a court finds that a claim is frivolous, it shall award sanctions to the prevailing party. MCL 600.2591(1). A claim is frivolous when: (1) the party's primary purpose in bringing the claim was to harass, embarrass, or injure the prevailing party; (2) the party had no reasonable basis to believe the underlying facts were true; or (3) the party's position was devoid of arguable legal merit. MCL 600.2591(3). Sanctions include reasonable costs and fees, including attorney fees. MCL 600.2591(1). Similarly, pursuant to MCR 2.114(E), the filing of a signed pleading which is not well-grounded in fact and law subjects the filer to sanctions. MCR 2.114(D)(3). The determination whether a claim was frivolous must be based on the circumstances that existed at the time it was asserted. *Jerico Construction, Inc v Quadrants, Inc*, 257 Mich App 22, 36; 666 NW2d 310 (2003). We review a trial court's determination that a claim was frivolous for clear error. *Id.* at 35.

We affirm. Plaintiffs' complaint alleged that defendants made defamatory statements that resulted in damage to their professional reputations, but did not specify the contents of the statements. A party alleging defamation must specify which statements are false and defamatory in order to place the defendant on notice to defend the action. *Royal Palace, supra* at 56. Plaintiffs' complaint was insufficient to allege a claim of defamation, and the trial court properly granted defendants' motion for summary disposition of Counts I and III. MCR 2.116(C)(8). Furthermore, plaintiffs put forth no documentary or other admissible evidence to show that a genuine issue of fact existed as to whether defendants' making of allegedly defamatory statements interfered with their business relationships or expectancies. A promise to offer factual support at trial is insufficient to defeat a motion for summary disposition pursuant to MCR 2.116(C)(10). *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). The trial court properly granted defendants' motion for summary disposition of Count II. The trial court did not err by granting summary disposition in favor of all defendants, notwithstanding the fact that not all defendants joined in the motion for it. MCR 2.116(I)(2).

We conclude that plaintiffs' argument that the trial court clearly erred by finding that their action was frivolous is without merit. The trial court did not specify the ground on which it based its decision; however, given that plaintiffs' complaint was entirely devoid of specifics regarding defendants' allegedly defamatory statements, we conclude that the complaint was filed to "harass, embarrass, or injure" defendants. MCL 600.2591(3)(a)(i). Plaintiffs' assertion that the trial court's decision to award sanctions in the amount of \$5,000 was not reasonable and deprived them of due process is not preserved for review. Plaintiffs did not object to the award or request an evidentiary hearing to contest the award in the trial court. *City of Taylor v Detroit Edison Company*, 263 Mich App 551, 560; 689 NW2d 482 (2004).

Affirmed.

/s/ Brian K. Zahra  
/s/ Mark J. Cavanagh  
/s/ Donald S. Owens